

International Health Regulation 2005 and Indonesia's Actions in Handling the Covid-19 Outbreak as the State's Responsibility

Noer Indriati¹, Aryani Yuliantiningsih², Wismaningsih³

¹Universitas Jenderal Sudirman, Purwokerto, Indoneisa

E-mail: sunoboputri40@gmail.com

² Universitas Jenderal Sudirman, Purwokerto, Indoneisa

E-mail: Aryuni71@gmail.com

³ Universitas Jenderal Sudirman, Purwokerto, Indoneisa

E-mail: wismaningsih10@gmail.com

Submitted: March 12, 2022; Reviewed: November 07, 2022; Accepted: November 15, 2022

Article Info

Keywords:

State responsibility, State obligation, Epidemic handling

DOI:

10.25041/fiatjustisia.v16no4.2566

Abstract

An increase in international trip results in health risks and problems that can be solved through cooperation between countries and international organizations. This study aimed to analyze legal phenomena using certain methods, systematics, and thoughts juridical and statute approaches. The data were analyzed using the normative-qualitative technique. International Health Regulation 2005 is a legal framework of the World Health Organization (WHO) and soft law that requires no ratification. This regulation forms the basis for achieving global health goals, necessitating compliance from countries in line with Articles 2, 3, and 6 of the 2005 IHR. The State's obligations under national and international law in protecting citizens include respecting and fulfilling government implementations. Furthermore, it is expected to issue several laws and provide health facilities and services. The Government continues to increase various efforts to control the spike in active cases, such as through vaccination programs..

A. Introduction

Coronavirus disease 2019 (COVID-19), originally named the 2019 novel coronavirus (2019-nCoV), is caused by the Severe Acute Respiratory Syndrome Coronavirus-2 (SARS-CoV-2). Specifically, the virus causes respiratory system disorders, ranging from mild symptoms including flu and lung infections, such as pneumonia. The first case was discovered in Wuhan City, China, but spread and contaminated the world community. Based on WHO's report on the development of COVID-19, 300,000,710 cases were confirmed, including 943,433 deaths as of August 27, 2020.¹

The world is currently suffering from a second wave of COVID-19. Countries, including China, Iran, Israel, Saudi Arabia, Turkey, the United States, the United Kingdom, India, and Mexico are experiencing an increased emergence of a new corona outbreak. The new outbreak has been emerging since the last elimination efforts in April 2020. Consequently, the new wave or second phase has a massive impact on public health. This virus received a reaction from the World Health Organization (WHO) through an Emergency Committee meeting convened by the Director-General of WHO. At a meeting held in Geneva, Switzerland, in January 2020, WHO declared the 2019-nCoV (COVID-19) case a Public Health Emergency of International Concern (PHEIC). After its stipulation, WHO has the authority to handle the pandemic as a global health emergency.

As an originality there is a study with the title: Implementation of the International Health Regulation (IHR) in 2005 in an Effort to Prevent the Prevention of Public Health Emergency of International Concern (PHEIC) In Indonesia, author: Feirus Rizki Andayani, reviewed : The 2005 IHR regulates the main substantive changes of the previous regime and has the principle of respecting human rights and controlling infectious diseases without having hampering travel and trade proportionally.² Furthermore, the International Health Regulation 2005: Substantial Developments for International Law And Global Health Security, author : Rika Kurniaty, examines : Assessment, and various references related to the problem identified. The results showed that the implementation of IHR (2005) on laws and regulations in an effort to prevent PHEIC deterrence has not been fully implemented properly. existing

¹ Ray Faradillahisari Nursofwa, etl., Penanganan Pelayanan Kesehatan Di Masa Pandemi Covid-19 Dalam Perspektif Hukum Kesehatan, Jurnal Inicio Legis, Vol 1, No 1 (2020), <https://journal.trunojoyo.ac.id/iniciolegis/issue/view/822>, accessed on April 22, 2021. (see: Aditya Susilo, Jurnal Phenakite Dalam Indonesia, Vol 7, No 1 (2020), <http://jurnalpenyakitdalam.ui.ac.id/index.php/jpdi/article/view/415> , accessed on January 22, 2022, p. 1

² Feirus Rizki Andayani, Implementasi International Health Regulation (IHR) Tahun 2005 Dalam Upaya Cegah Tangkal Public Health Emergency Of International Concern (PHEIC) Di Indonesia, 2019, <http://r2kn.litbang.kemkes.go.id:8080/handle/123456789/65290?show=full>, accessed on Nopember 9, 2022

regulations have not been integrated and comprehensive into a single whole; and still find obstacles and shortcomings in its implementation.³

A health emergency occurs when the international community is threatened with a health problem such as a virus or other diseases. The word emergency is a managerial term that demands decisions and follow-up by authorities in case of extraordinary actions. Moreover, international cooperation is needed as an effort to handle the emergency. This is stated in the Public Health Emergency of International Concern (PHEIC) procedure. An extraordinary event or outbreak endangers the health of the people of other countries through international traffic or travel and potentially requires cooperation or international coordination.

This study used the legislation focusing on the International Health Regulation 2005, Universal Declaration of Human Rights 1948, The Charter of the United Nations 1945, and Law (UU) no. 39 of 1999 concerning Human Rights. It also used a case approach to analyze health events. The data were obtained from primary, secondary, and tertiary legal materials comprising scientific works from journals, papers, literature, and dictionaries. Afterwards, data were presented as a narrative text described based on a theory arranged logically and systematically as a unified whole. The presentation was based on norms and doctrines relevant to the existing issues and analyzed qualitatively juridically.

B. Discussion

1. Overview of State Obligations and Responsibilities

The obligations to respect, protect and fulfill contain relates to conducting and implementing. The State must take certain steps to fulfill the obligations and rights to achieve certain goals, including all its obligations. In case this is not fulfilled, it will be considered to have committed a violation.⁴

State obligations are contained in constitutional articles, including guaranteeing a fair legal system and Human Rights, developing a national education system, providing social security, and giving freedom of worship to its citizens. Under national law, the state obligations and rights apply to individuals that should be considered state organs. These are individuals who perform certain functions determined by the national legal system. Furthermore, the State must correct the wrong actions of individuals because they are a responsible part of a state organ or apparatus.

³ Rika Kurniaty, Peraturan Kesehatan Internasional 2005: Perkembangan Substansial Untuk Hukum Internasional Dan Keamanan Kesehatan Global, *Masalah-Masalah Hukum*, Jilid. 50 No.4, Oktober 2021, p-ISSN : 2086-2695, e-ISSN : 2527-4716, Fakultas Hukum, Universitas Brawijaya, p. 434-446.

⁴ Muhammad Jailani, "Tanggung Jawab Negara Dalam Memberikan Perlindungan Terhadap Hak-Hak Korban Pelanggaran HAM Berat Di Indonesia", *Jurnal Syiar Hukum*, FH.UNISBA. VOL. XIII. NO. 1 Maret 2011, <https://ejournal.unisba.ac.id>, p. 84.

This begins with the community agreement theory, which states that people must obey and be subject to the law because of the agreement. The law is considered a common will, meaning that a consensus from all members of society is a mutual agreement. According to John Locke in the book *Two Treatises on Civil Government*, the agreement also includes conditions, such as the powers granted, restricted, and prohibited from violating human rights. Moreover, this theory results in the king's power being limited by the constitution. Therefore, the will submitted results in rights and obligations between the submitting and the entrusted party. The responsibility of the authorities arises towards the submitting party or the community.

The theory of state responsibility⁵ means that the state is obliged to bear everything due to the attitude of its party or others. This means that it may be prosecuted, blamed, or sued in case an event or problem occurs. Oppenheim distinguished between the actual responsibility of a state for its actions and those of agents and individuals carried out on orders from government authorities. Others are pseudo-responsibility when certain actions are carried out by agents, citizens, and foreign nationals living in their country.

State responsibilities are divided into international and national. Concerning the study problem, spreading the epidemic could be a national and international responsibility to ensure prevention. Moreover, a rapidly spreading epidemic must be the responsibility of the State.

Responsibility and liability are often associated with legal strategy. It is the development of a system or an effort to prevent injurious activity by establishing precise standards of permissible conduct. M.C.W. Pinto explained that responsibility is intended to determine the birth of responsibility. It is a standard determined in advance in an obligation to be adhered to. In contrast, liability comprises the consequences of failure to meet these standards. It also means the forms of responsibility realized in compensation and recovery of damage or loss resulting from an action.⁶ Herbert J. Spiro stated that the law on State responsibility regulates accountability for violating international law. In this case, accountability is the State's desire to act or the mental ability to realize its action. The State must be responsible for its actions that violate international law.⁷

F. Sugeng Istanto stated that the State's responsibility arises when it has harmed another State based on international law. Similarly, State

⁵ Responsibility means: (1). The State of being obliged to bear everything (if anything happens, it can be sued, blamed, etc.); (2). The function of accepting the burden results from the attitude of the party itself or the other party. (Indonesia Dictionary - Fourth edition, 2008, Departemen Pendidikan Nasional, Jakarta: Gramedia Pustaka Utama).

⁶ M.C.W. Pinto, 1985, *Reflection on International Liability for Injurious Consequences Arising Out of Acts Not Prohibited by International law*, Netherlands Yearbook of International Law, Martinus Nijhoff Publisher, p. 26.

⁷ Herbert J. Spiro, *Responsibility In Government: Theory and Practice*, Publishing by Van Nostrand Reinhold Company 450 West 33rd Street, New York, N. Y. 10001, p. 39-41.

accountability means the obligation to provide responsibility as a calculation of something that occurred and to provide remedies for potential losses.⁸ State liability is limited to internationally illegal acts whose sources violate international law. Therefore, State international obligations that result in the responsibility could be:

- (a) Not serious actions towards other countries and resolved with an apology.
- (b) Not fulfilling the obligation to compensate for moral or material losses.
- (c) Acts for violating the agreement.

State responsibility is born because of the occurrence of an internationally wrongful act. In this case, State behavior that violates international law could be held accountable even when it does not harm third parties.

Malcolm N. Shaw stated that the main characteristics of State responsibility are based on the following factors:⁹

1. An international legal obligation that applies between two States.
2. An act or omission that violates the international legal obligations that create State responsibility; and
3. Any damage or an unlawful act or omission.

State responsibility relates to determining how it is considered to have committed acts against international law. It implies obligations arising from the agreements between countries and certain laws of the agreement. This responsibility principle was developed from the maxim *sic utere tuo alienum ut non laedas*, meaning an activity that should not harm other parties.

State responsibility is essentially closely related to State sovereignty. However, this sovereignty does not mean the State is free from responsibility. A State could be held responsible for actions that abuse its sovereignty.¹⁰

The responsibility is regulated in international standards, though it may include national standards in specific violations of an international standard. This depends on international law concerning the actions or omissions of a particular State, whether legal or wrong. State responsibility could be realized in the form of:

- a. Prevention of loss (preventive)
- b. Recovery of losses or payment of compensation (repressive),

The preventive principle of State responsibility applied as prevention is standard of action and technology. They are outlined as standard obligations and specifically stated in an agreement, including institutional completeness

⁸ F. Sugeng Istanto, 1998, *Hukum Internasional*, Yogyakarta: Atma Jaya Yogyakarta, pg. 77.

⁹ Malcolm N. Shaw, 1997, *International Law*, Cambridge University Press, Fourth Edition, pg. 542.

¹⁰ Huala Adolf, 2002, *Aspek-aspek Negara Dalam Hukum Internasional*, Jakarta: Rajawali Pers, pg. 255.

and the mechanism for its implementation. Moreover, the repressive principle of State responsibility is a certain formulation or compensation placed as a special part of certain agreements.

2. State Obligations in Health Based on International Health Regulation 2005

International Health Regulations (IHR) is an agreement among member countries of World Health Organization (WHO). They agreed to have adequate early detection, prevention, and response capabilities for public health threats with the potential to spread between countries. Furthermore, the agreement is based on national surveillance systems and existing laws and regulations in each country.

Outbreaks of infectious diseases are a big problem for all human beings. The Zika virus, an epidemic spread widely from Brazil to South Korea, covid, and omicron, are the latest examples of how infectious diseases easily cross-national borders. Therefore, this necessitates coordination of the international community to prevent infectious diseases.

The International Health Regulation 2005 is a WHO legal framework and a soft law that require no parties' ratification as the basis for achieving global health goals. As a legal umbrella for WHO activities, Article 2 of the IHR aims to promote international public health without disturbing traffic and trade.¹¹ Preventing, protecting, controlling, and providing a public health response to the international spread of disease is carried out without interfering with traffic and trade.

The provisions of this article are difficult to follow because it is necessary to limit migration and international trade to prevent the spread of the virus, specifically in a health emergency. However, restrictions on migration and international trade endanger the economic condition of developing and underdeveloped countries. The difficulty experienced by countries is in balancing health and economic interests during the COVID-19 pandemic. WHO issued recommendations for countries to take preventive measures against the spread of COVID-19. However, it does not recommend lockdown or restrictions in their respective regions. Various countries have assessed this approach as an inconsistent attitude in responding to COVID-19.

The threat of emerging and re-emerging infectious diseases and the rapid international mobilization has made epidemics spread rapidly across boundaries. These threats comprise biological, chemical, and nuclear agents with health and economic impact. Therefore, it requires a national and international multi-sectoral approach. International Health Regulations (IHR) mandates each member country to have Core Capacity, including:

1. Legislation and Policy,
2. Coordination,

¹¹ *International Health Regulation 2005.*

3. Surveillance,
4. Preparedness,
5. Response,
6. Risk Communication,
7. Human Resources
8. Laboratory.

The Joint External Evaluation (JEE) is a voluntary, collaborative, and multi-sectoral coordination to assess Core Capacities of a country to prevent, detect and respond quickly to public health risks. It determines whether a virus occurs naturally or due to an intentional or unintentional event. Additionally, JEE helps countries identify critical and emergency health issues to determine preparedness and response priorities.

The binding power of the parties' rights and obligations is stated in Article 3 paragraph (4) of the IHR. Based on these provisions, the State must implement the IHR in its laws and regulations and uphold the IHR objectives. Indonesia implemented the IHR 2005 in 2014, though many things still need improvements, such as legislation and government policies. The country conducts periodic evaluations related to fulfilling the Core Capacities mandated by the IHR 2005.

The problem concerning the State's obligation to comply with the IHR provisions arose at the beginning of the COVID-19 pandemic. As the origin of the outbreak, China has carried out its obligations in line with the IHR provisions. Therefore, a country that has agreed to the IHR must implement its provisions.

At the beginning of the COVID-19 pandemic, China's actions were not cooperative because it did not directly report the outbreaks in its territory to WHO. This act contradicted the IHR provisions. Article 6 paragraph (1) of the IHR states ¹²:

Each State Party shall assess events occurring within its territory using the decision instrument in Annex 2. Each State Party shall notify WHO, by the most efficient means of communication available, by way of the National IHR Focal Point, and within 24 hours of assessment of public health information, of all events which may constitute a public health emergency of international concern within its territory in line with the decision instrument, as well as any health measure implemented in response to those events. When WHO's notification involves the competency of the International Atomic Energy Agency (IAEA), WHO shall immediately notify the IAEA.

Under the provisions of this article, member states must assess events occurring within their territory and notify WHO through the National IHR Focal Point. This should occur within 24 hours after assessing public health

¹² *Ibid*

information of all events that may constitute an emergency requiring international attention. China's actions to report conditions in its territory to WHO on December 31, 2019, contradicted the article's provisions. China reported to WHO with the alleged first case in the Wuhan City on November 17, 2019, after more than one month into the outbreak. This attitude in reporting the outbreak after more than one month contradicts Article 6 paragraph (1) of the International Health Regulation.

China's failure to heed the International Health Regulation has sparked anger among other member countries. However, WHO inability to impose penalties or sanctions against China is because no rules mention sanctions or penalties for violators of the provisions, implying an imperfection of the IHR in dealing with health emergencies (PHEIC). Furthermore, WHO has no formal power to compel state parties to comply with the IHR. According to Article 6 of the IHR, states must monitor their health situation and notify WHO of any possible international emergency.

Almost all countries know the importance of accepting restrictions on their freedom of action in international law. Therefore, J.G. Starke stated that:¹³

There is hardly a state that has not accepted restrictions on its liberty of action in the international community's interest. Therefore, it is probably more accurate to say that the sovereignty of a State means the residuum of power it possesses within the confines laid down by international law.

Very few countries do not accept restrictions on their actions in the life of the international community. The notion of sovereignty in international relations is a residuum or remains of power within limits set by international law. State sovereignty is important for the existence of a state, even when still held as a basic principle of international law which nature is not absolute. This absoluteness is caused by the countries with attached obligations. The states' obligations in international relations have been stipulated in the United Nations Charter and the Declaration on Principles of International Law Concerning Friendly Relations and Cooperation among States.

Through the United Nations (UN), countries in 1948 had established Universal Declaration of Human Rights, which regulates the right to health. Article 25 states that : "Everyone has the right to a standard of living adequate for the health and well- being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control." The right in Article 25 is related to recognizing that the health of all people is the basis for the achievement of peace and security.

¹³ J.G. Starke, 2006, *Pengantar Hukum Internasional Edisi Kesepuluh (1)*, Cetakan Kedelapan, Jakarta: Sinar Grafika, p. 100.

The right to health does not mean the right for everyone to be healthy, or the government should provide expensive means of health care outside government ability, but more demanding that the government and public officials be able to make various policies and work plans that lead to available and affordable means of health care for all in the possible time that immediately. **Article 12.1** *International Covenant on Economic, Social and Cultural Right (ICESCR)1966* of the Covenant recognises the right of everyone to "the enjoyment of the highest attainable standard of physical and mental health". "Health" is understood not just as a right to be healthy, but as a right to control one's own health and body (including reproduction), and be free from interference such as torture or medical experimentation. States must protect this right by ensuring that everyone within their jurisdiction has access to the underlying determinants of health, such as clean water, sanitation, food, nutrition and housing, and through a comprehensive system of healthcare, which is available to everyone without discrimination, and economically accessible to all. Article 12.2 requires parties to take specific steps to improve the health of their citizens, including reducing infant mortality and improving child health, improving environmental and workplace health, preventing, controlling and treating epidemic diseases, and creating conditions to ensure equal and timely access to medical services for all. These are considered to be "illustrative, non-exhaustive examples", rather than a complete statement of parties' obligations.

The right to health is interpreted as requiring parties to respect women's reproductive rights, by not limiting access to contraception or "censoring, withholding or intentionally misrepresenting" information about sexual health. They must also ensure that women are protected from harmful traditional practices such as female genital mutilation. The right to health is an inclusive right extending not only to timely and appropriate health care, but also to the underlying determinants of health, such as access to safe and potable water and adequate sanitation, an adequate supply of safe food, nutrition and housing, healthy occupational and environmental conditions.

3. Indonesia's Actions in Handling the Covid-19 Outbreak as the State's Responsibility

The role of the state in fulfilling the basic needs of the people is very necessary, especially in the form of health services in a foreign way, with health recognized as one of the human rights, namely a set of rights attached to the nature and existence of man as a creature of God Almighty that must be respected, upheld and protected by the state. In fulfilling citizens' right to health, the government is bound by the responsibility to ensure adequate access for every citizen to proper and optimal health services. In an effort to

respect, protect and fulfill state obligations by implementing human rights norms on the right to health.¹⁴

The State's obligations under national and international law in protecting its citizens include:

a. To respect rights

The State is mainly concerned with actions or policies that would be avoided. Countries must avoid actions that negatively impact health, such as limiting access to health services, discrimination, and misrepresenting important information. Other actions include rejecting international commitments without considering their health impacts, hindering safe traditional medicine practices, and distributing unsafe drugs.

b. To protect rights

The state should take legislative or other steps that ensure equal access to health services provided by third parties. It must make legislation, regulations, and guidelines to protect labor, society, and the environment. Furthermore, the State must control and regulate the marketing and distribution of health-harmful substances harmful, such as tobacco, alcohol, and traditional medical practices.

c. To fulfill rights

The Government must provide health facilities and services, adequate food, information, and education related to health. It must provide pre-health services, gender equality, equal access to work, education, and freedom from violence, exploitation, and sexual crimes that impact health.

Indonesian citizens are guaranteed health insurance in Article 28H paragraph (1) of the 1945 Constitution. This means the Government should consider and provide guarantees in line with the constitutional mandate. According to the Human Rights Concept, every Indonesian citizen has equal rights to justice and welfare without discrimination. Therefore, the health insurance is expected to solve problems such as the Covid-19 outbreak.¹⁵

The PSBB legal policy carried out by the government based on the strategy of handling COVID-19 by making arrangements or management of state administration is a legality government to action. The government within the framework of handling COVID-19 has made a Government Regulation in Lieu of Law Number 1 of 2020 concerning State Financial Policy and

¹⁴ Mikho Ardinata, "Tanggung Jawab Negara terhadap Jaminan Kesehatan dalam Perspektif Hak Asasi Manusia (HAM)", *Jurnal HAM*, Vol 11, No 2 (2020), <https://ejournal.balitbangham.go.id/index.php/ham/article/view/1196/pdf>, accessed on April 20, 2021,

¹⁵ Syaiful Bakhri, "Aspek Perlindungan Hukum Dalam Pelayanan Kesehatan dan Kedokteran", FH. UMJ <https://fh.umj.ac.id/aspek-perlindungan-hukum-dalam-pelayanan-kesehatan-dan-kedokteran/>, accessed on January 23, 2022

Financial System Stability for Handling the Corona Virus Disease 2019 (COVID-19) Pandemic and/or in order to Face Threats that Endanger the National Economy and/or Financial System Stability, March 31, 2020;¹⁶ The Government Regulation in Lieu of Law Number 1 of 2020 is essentially the government's effort in handling COVID-19, and to face threats that endanger the national economy and/or financial system stability.

Government Regulation in Lieu of Law in this case was issued by the government because of the assumption that there are no laws and regulations that are the basis and legality of government actions in the context of state financial policy and financial system stability for handling COVID-19 which threatens the economy and stability financial system. This government's assumption is not entirely true, the current condition of the COVID-19 pandemic in Indonesia can basically be approached juridically by the government through Government Regulations (PP), as organic regulations to implement various related laws, without having to issue Government Regulation in Lieu of Law, except by remembering, that the compelling crunch situation does not exist at all laws that can be used as the basis and legality of the government in taking action to overcome this. The legality of government actions to overcome the state of state finances and the stability of the country's financial system in the midst of the COVID-19 pandemic can be found legality in various related laws. The following is a table of laws and regulations that are the legal basis of the government in order to deal with the economic impact during the COVID-19 pandemic without having to issue another Government Regulation in Lieu of Law.

Large-Scale Social Restrictions (PSBB) are policies issued through Government Regulation Number 21 of 2020 in the Context of Accelerating Handling of Corona Virus Disease 2019 (COVID-19). The policies restrict certain residents' activities in areas suspected of being infected with Corona Virus Disease 2019 to prevent possible spread. They are a preamble of the 4th paragraph of the Constitution of Indonesia and form an Indonesian State Government that protects the country and promotes public welfare. This could be interpreted from the preamble of the 1945 Constitution of Indonesia, which stipulates the the State must protect the nation through PSBB to reduce the spread of COVID-19.

Large-Scale Social Restriction is based on Law Number 4 of 1984 concerning Outbreaks of Infectious Diseases, Law Number 24 of 2007 concerning Disaster Management, and Law Number 6 of 2018 concerning Health Quarantine. Article 2 of Law Number 4 of 1984 states that:

¹⁶ Herman Sapto Hermawan, Analisis Kebijakan Penanganan Covid-19 Dari Perspektif Sociological Jurisprudence, *Arena Hukum*, Volume 14, Nomor 2, Agustus 2021, Fakultas Hukum, Universitas Brawijaya, Malang, hal. 328-34.

“The purpose and objective of this law are to protect the population from the calamities caused by the epidemic to increase the community's ability to live a healthy life.”

Large-Scale Social Restrictions (PSBB) are based on laws aiming for public safety from disasters, epidemics, or pandemics, and are implemented by the Government and the people. Also, PSBB are regulated in Government Regulation Number 21 of 2020 concerning Accelerating the Handling of Corona Virus Disease 2019. Large-Scale Social Restrictions (PSBB) has the following criteria:¹⁷

- a. The number of cases or deaths due to the disease spread rapidly to several regions; and
- b. There is an epidemiological link with similar events in other regions or countries.

Large-Scale Social Restrictions (PSBB) apply to schools, workplaces, and religious and other activities in public places or facilities. Article 4 paragraph (3) of Government Regulation Number 21 of 2020 concerning PSBB in the Context of Accelerating the Handling of the Corona Virus reads: The Restriction of activities in paragraph (1) (c) fulfills the population's basic needs. This means that implementing the PSBB policy should fulfill the population's basic needs. Therefore, the Government imposes six policy packages that ensure the availability of basic needs for low-income communities affected by COVID-19.

The six policy packages include:

1. Beneficiaries of the Family Hope Program or PKH increased from 9.2 million to 10 million families, with a 25% increase in funds.
2. Increased basic food card recipients from 15.2 million to 20 million beneficiaries, while the assistance increased from IDR 150 thousand to IDR 200 thousand. This policy would be provided for nine months.
3. The pre-employment card policy was increased from IDR 10 trillion to IDR 20 trillion to reach 5.6 million recipients. The policy is prioritized for informal workers and micro and small business actors affected by COVID-19. IDR 650- IDR 1 million is given per month for four months.
4. The Government makes electricity-free for 24 million 450 VA customers for the next three months, starting from April-June 2020. Seven million 900 VA customers get a 50% discount.
5. The Government has reserved IDR 25 trillion for basic needs, market operations, and logistics.

¹⁷ Juaningsih, “Optimalisasi Kebijakan Pemerintah Dalam Penanganan Covid-19 Terhadap Masyarakat Indonesia”, *Jurnal Sosial dan Budaya Syar-I*, Vol 7, No 6 (2020), Faculty of Sharia and Law UIN Syarif Hidayatullah Jakarta.

6. The Government ensures credit relief for online motorcycle and taxi drivers, MSME actors, fishers, and other informal workers with daily income and credit below IDR 10 billion.

The number of positive confirmed cases of COVID-19 in Indonesia has increased mainly due to the Delta and Omicron variants. Therefore, the Government makes various efforts to handle these cases to ensure no spikes and increases. It is accelerating the vaccination program to achieve communal or herd immunity. This is because vaccination has a central role in handling COVID-19 and recovering the national economy. The vaccination program has reached 66.5 million, comprising 46.7 million and 19.8 million first and second doses.

The Government makes efforts for Testing, Tracing, and Treatment (3T), and increasing the availability of health service facilities, oxygen, and the supply of medicines. It also promotes the use of the Peduli Lindungi application for Digital Tracing to strengthen 3T, and the use of the Silacak Application conducted by Tracers in Babhinsa and Bhabinkamtibmas. Digital tracing helps identify and detect the public by digitally tracking location data and information. This application is integrated into the existing system and database at the Ministry of Health (Kemenkes). It uses a QR Code to track the data of vaccinated people and the results of the PCR Test or Antigen Swab.

Indicators of COVID-19 cases are seen from the number of active cases, daily confirmation, death and positivity rates, and Bed Occupancy Rate (BOR). These indicators show that several areas outside Java and Bali have not improved and requires government efforts to control the spike in active cases. This is achieved by:¹⁸

1. Improving 3M, specifically wearing masks. This should be promoted and supported by the Mask Distribution Program.
2. Accelerating vaccination in areas with the highest Active Cases. The Ministry of Health promotes the distribution and supply of vaccines to the regions.
3. In implementing 3T. Testing needs to be improved according to the Ministry of Home Affairs target. Also, it requires Tracing by increasing Tracer and Digital Tracing.
4. Areas with high BOR must increase TT conversion for COVID-19 isolation facilities.

The State shall ensure the right of every citizen to enjoy health, in addition to taking administrative, legislative, judicial and practical policies for the fulfillment of citizens' rights.

¹⁸ Kominfo, "Pemerintah Terus Dorong Pengendalian Laju Penyebaran Covid-19", <https://www.kominfo.go.id/content/detail/36050/pemerintah-terus-dorong-pengendalian-laju-penyebaran-covid-19/0/berita>. Accessed on January 12, 2022.

C. Conclusion

International Health Regulation 2005 is a legal framework of WHO, a soft law that requires no ratification, and a basis for achieving global health goals with compliance from countries. This is in line with Articles 2, 3, and 6 of the 2005 IHR. Article 25 of The Universal Declaration of Human Rights; articles 12(1) and 12(2) of *International Covenant on Economic, Social and Cultural Right (ICESCR)* 1966.

The State shall ensure the right of every citizen to enjoy health, in addition to taking administrative, legislative, judicial and practical policies for the fulfillment of citizens' rights. The State's obligations under national and international law in protecting its citizens include respecting, protecting, and fulfilling rights. Indonesia's government has implemented the three obligations by issuing laws, providing health facilities and services, and increasing efforts to control active cases.

D. Suggestion

Handling COVID-19 requires integrated efforts from the Central and Regional governments and the whole community.

Acknowledgements

Thanks for the Dean of Law Faculty, Jenderal Soedirman University who has given us permission to do research. Thanks for my colleagues for the good cooperation in the research team.

References

- Aditya Susilo, Jurnal Penyakit Dalam Indonesia, Vol 7, No 1 (2020), <http://jurnalpenyakitdalam.ui.ac.id/index.php/jpdi/article/view/415>, accessed on January 22, 2022.
- F. Sugeng Istanto, *Hukum Internasional*, Yogyakarta: Atma Jaya Yogyakarta, 1998.
- Feirus Rizki Andayani, Implementasi International Health Regulation (IHR) Tahun 2005 Dalam Upaya Cegah Tangkal Public Health Emergency Of International Concern (PHEIC) Di Indonesia, 2019, <http://r2kn.litbang.kemkes.go.id:8080/handle/123456789/65290?show=full>, diakses pada 9 Nopember 2022
- Herbert J. Spiro, *Responsibility In Government: Theory and Practice*, Publishing by Van Nostrand Reinhold Company 450 West 33rd Street, New York, N. Y. 1000.
- Herman Sapto Hermawan, Analisis Kebijakan Penanganan Covid-19 Dari Perspektif Sociological Jurisprudence, *Arena Hukum*, Volume 14,

- Nomor 2, Agustus 2021, Fakultas Hukum, Universitas Brawijaya, Malang.
- Huala Adolf, *Aspek-aspek Negara Dalam Hukum Internasional*, Jakarta: Rajawali Pers, 2002.
- Indonesia Dictionary - Fourth edition, Departemen Pendidikan Nasional, Jakarta: Gramedia Pustaka Utama, 2008.
- J.G. Starke, 2006, *Pengantar Hukum Internasional Edisi Kesepuluh (1)*, Cetakan Kedelapan, Jakarta: Sinar Grafika, p. 100.
- Juaningsih, "Optimalisasi Kebijakan Pemerintah Dalam Penanganan Covid-19 Terhadap Masyarakat Indonesia", *Jurnal Sosial dan Budaya Syar-I*, Vol 7, No 6 (2020), Faculty of Sharia and Law UIN Syarif Hidayatullah Jakarta.
- M.C.W. Pinto, *Reflection on International Liability for Injurious Consequences Arising Out of Acts Not Prohibited by International Law*, Netherlands Yearbook of International Law, Martinus Nijhoff Publisher, 1985.
- Malcolm N. Shaw, *International Law*, Cambridge University Press, Fourth Edition, 1997.
- Mikho Ardinata, "Tanggung Jawab Negara terhadap Jaminan Kesehatan dalam Perspektif Hak Asasi Manusia (HAM)", *Jurnal HAM*, Vol 11, No 2 (2020), <https://ejournal.balitbangham.go.id/index.php/ham/article/view/1196/pdf>, accessed on April 20, 2021.
- Muhammad Jailani, "Tanggung Jawab Negara Dalam Memberikan Perlindungan Terhadap Hak-Hak Korban Pelanggaran HAM Berat Di Indonesia", *Jurnal Syiar Hukum*, FH.UNISBA. VOL. XIII. NO. 1 Maret 2011, <https://ejournal.unisba.ac.id>.
- Ray Faradillahisari Nursofwa, etl., Penanganan Pelayanan Kesehatan Di Masa Pandemi Covid-19 Dalam Perspektif Hukum Kesehatan, *Jurnal Inicio Legis*, Vol 1, No 1 (2020), <https://journal.trunojoyo.ac.id/iniciolegis/issue/view/822>, accessed on April 22, 2021.
- Rika Kurniaty, Peraturan Kesehatan Internasional 2005: Perkembangan Substansial Untuk Hukum Internasional Dan Keamanan Kesehatan Global, *Masalah-Masalah Hukum*, Jilid. 50 No.4, Oktober 2021, p-ISSN : 2086-2695, e-ISSN : 2527-4716, Fakultas Hukum, Universitas Brawijaya
- Syaiful Bakhri, "Aspek Perlindungan Hukum Dalam Pelayanan Kesehatan dan Kedokteran", FH. UMJ <https://fh.umj.ac.id/aspek-perlindungan-hukum-dalam-pelayanan-kesehatan-dan-kedokteran/>, accessed on January 23, 2022.

